

REMARKS

In accordance with the above amendments, the slate of claims containing Claims 51-69 originally under consideration has been canceled, without prejudice, and a new slate containing Claims 80-100 substituted for it. It is believed that the new independent claims overcome the enumerated rejections based on 35 U.S.C. § 112 raised by the Examiner in his Official Action. It is further believed that the claims more accurately portray the invention.

With respect to the merits of the claims, canceled claims stood rejected under 35 U.S.C. § 103 as being unpatentable over Törmälä et al (U.S. Patent 4 863 472) in view of Nashef et al (U.S. Patent 4 678 470). Applicants think this rejection should not stand and respectfully traverse.

As explained in previous papers, each of the independent claims, and so each of the dependent claims of the present application, requires the articles of the injectable particulate implantation system of the invention to be "generally soft", "malleable", "elastic", "resilient" or the like. Injectable particulate implant system of the invention is not designed for bone tissue replacement; likewise, the ceramic micro particles of the Törmälä et al reference are hard and unsuitable for applicants' invention. The combination of the Törmälä et al porous ceramic micro particles with a physiological carrier as taught by Nashef et

al clearly would not produce the particulate implant system of the present invention.

The references fail to teach a particulate implantation system utilizing soft resilient materials and they further fail to teach the use of the combination of surface roughness and particulate size to cooperate in an autogenous manner to substantially prevent loss of particles from a soft tissue augmentation site. This technique cannot be found in the cited references nor, it is submitted, could the technique be predicted from them. Note that no added physical constraint means is associated with the implant of the present invention, compared with the casing of Törmälä et al which has only a weep hole in a solid casing. Applicants believe that in this and previous remarks, patentable differences between the prior art and the present invention have been demonstrated. The Examiner's references to specific passages in the patents with respect to certain dependent claims have also been reviewed and are believed not to bring the references any closer inasmuch as they do not affect the fundamental differences between the combination and the present invention.

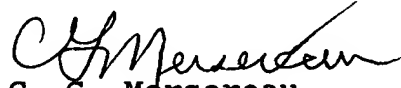
With respect to the objections to the Information Disclosure Statement, applicants will submit the missing references under separate cover, i.e., references AA-AK on page 1 and AA-AH on page 2 of the original Information Disclosure Statement. With

respect to references AL on page 1 and AL on page 2, the applicants have no further translation themselves.

In view of the above amendments, taken together with the remarks herein, applicants believe they now present claims patentably distinct from the combination of references applied or any other references known to them and consideration and early allowance of the Claims is earnestly solicited.

Respectfully submitted,

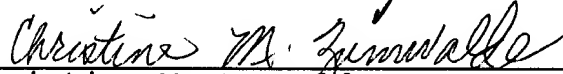
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CERTIFICATE OF MAILING

I hereby certify that the foregoing letter, together with an Amendment under 37 CFR § 1.111, a Petition for Extension of Time, a check for \$55.00 in payment of the extension fee, in application Serial No. 08/052,414, filed on April 22, 1993, of Robert A. Ersek et al entitled "TEXTURED MICRO IMPLANTS" is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to The Commissioner of Patents and Trademarks, Washington, D.C. 20231, postage prepaid, on March 1, 1994.



Christine M. Zumwalde
Secretary to C. G. Mersereau
Attorney for Applicant

Date of Signature: March 1, 1994